

WORKPLACE HEALTH, SAFETY AND COMPENSATION REVIEW DIVISION



ANNUAL PERFORMANCE REPORT 2007-2008



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MESSAGE FROM THE CHIEF REVIEW COMMISSIONER

Pursuant to the provisions of the *Workplace Health, Safety and Compensation Act* (the *Act*), and in accordance with the Review Division's compliance with the *Transparency and Accountability Act*, I am pleased to present the Workplace Health, Safety and Compensation Review Division's (the Review Division) 2007-2008 Annual Performance Report.

This marks the first year the Review Division has produced an Annual Report based on Government's fiscal reporting schedule covering activities from April 1, 2007 to March 31, 2008. The Review Division and Chief Review Commissioner are responsible for the preparation of this report and are accountable for the results contained within it.

The Review Division is committed to service excellence in the delivery of its services to workers, employers, and others involved in the review process. I would like to thank the staff and Review Commissioners of the Review Division for their commitment in continuing to provide clients of the Review Division with exceptional client service and professionalism.

A handwritten signature in blue ink, appearing to read "Robert W. Lundrigan".

Robert W. Lundrigan
Chief Review Commissioner

OVERVIEW

INTRODUCTION

The Review Division is the final level of review within the workers' compensation system in Newfoundland and Labrador. The Review Division is responsible for the review of decisions of the Workplace Health, Safety and Compensation Commission (the Commission). The Review Division may review such issues as:

- ◆ Compensation benefits;
- ◆ Rehabilitation and return to work services and benefits;
- ◆ Employer's assessments;
- ◆ The assignment of an employer to a particular class or group;
- ◆ An employer's merit or demerit rating; and
- ◆ The obligations of an employer and a worker with respect to return to work and rehabilitation issues.

REVIEW COMMISSIONERS

The Review Division has a Chief Review Commissioner and a panel of Review Commissioners. Up to seven Review Commissioners may be appointed to the Review Division. Review Commissioners conduct hearings in St. John's, Gander, Grand-Falls Windsor, Corner Brook, Happy Valley-Goose Bay and Labrador City.

The appointment of Review Commissioner Kimberly Burridge expired on December 31, 2007 and Review Commissioner Alex Harrold's appointment expired on January 31, 2008. As of March 31, 2008, the Review Division was anticipating the reappointment and/or appointment of additional Review Commissioners.

REVIEW DIVISION STAFF

The Review Division employs nine staff (female) in its office located in the Dorset Building, at 6 Mount Carson Avenue in Mount Pearl, NL.

OVERVIEW (CONTINUED)

MISSION STATEMENT

The mission statement identifies the priority area of focus of the Review Division and spans two cycles of planning; the first cycle being for the fiscal year (2007-08) and the second cycle being for three fiscal years (2008-09, 2009-10, and 2010-11). The statement also identifies the measures and indicators that will assist the Review Division and others to monitor progress and evaluate success.

Mission Statement: **By 2011, the Review Division will have implemented a client service framework that provides workers and employers with effective tools and processes to assist in their participation within the review process.**

Measure 1: Client Service Framework is Implemented

Indicators:

- **Recommendations for changes to current practices and procedures are identified.**
- **Increased efficiency in application turnaround time.**
- **Increased awareness of the Review Division's role and services.**

The mission indicators listed above were provided in the Review Division's 2007-2008 Activity Plan. In the Review Division's current 2008-2011 Activity Plan, these indicators were enhanced to clarify the role of the Review Division in providing increased information to stakeholders through the provision of a client services manual. Like the others, this additional indicator will compliment the Review Division's ability to achieve its mission and provide workers and employers with the tools and processes to assist their participation within the review process.

OVERVIEW (CONTINUED)

MANDATE

The mandate of the Review Division is to review decisions of the Commission to ensure compliance with the *Workplace Health, Safety and Compensation Act* (the Act) and *Regulations*, as well as with the policies of the Commission. The Review Division is also mandated to direct appropriate remedies where necessary.

VISION

The vision of the Review Division is an environment where workers and employers participate in an independent, timely and fair review process anchored in a culture of exceptional client service.

VALUES

Initiatives that provide for continuous improvements in the area of client service remain a priority for the Review Division. The Review Division provides timely frontline services to its clients in an environment which is respectful, professional and free of bias. The core values of independence, respect and professionalism guide the Review Commissioners and staff of the Review Division on a daily basis.

LEGISLATION

The *Workplace Health, Safety and Compensation Act*, RSNL1990 CHAPTER W-11, Part II – Appeals, Sections 21 to 37 provide the legislative provisions for the Review Division.

INES OF BUSINESS

The Review Division offers the following services to its clients:

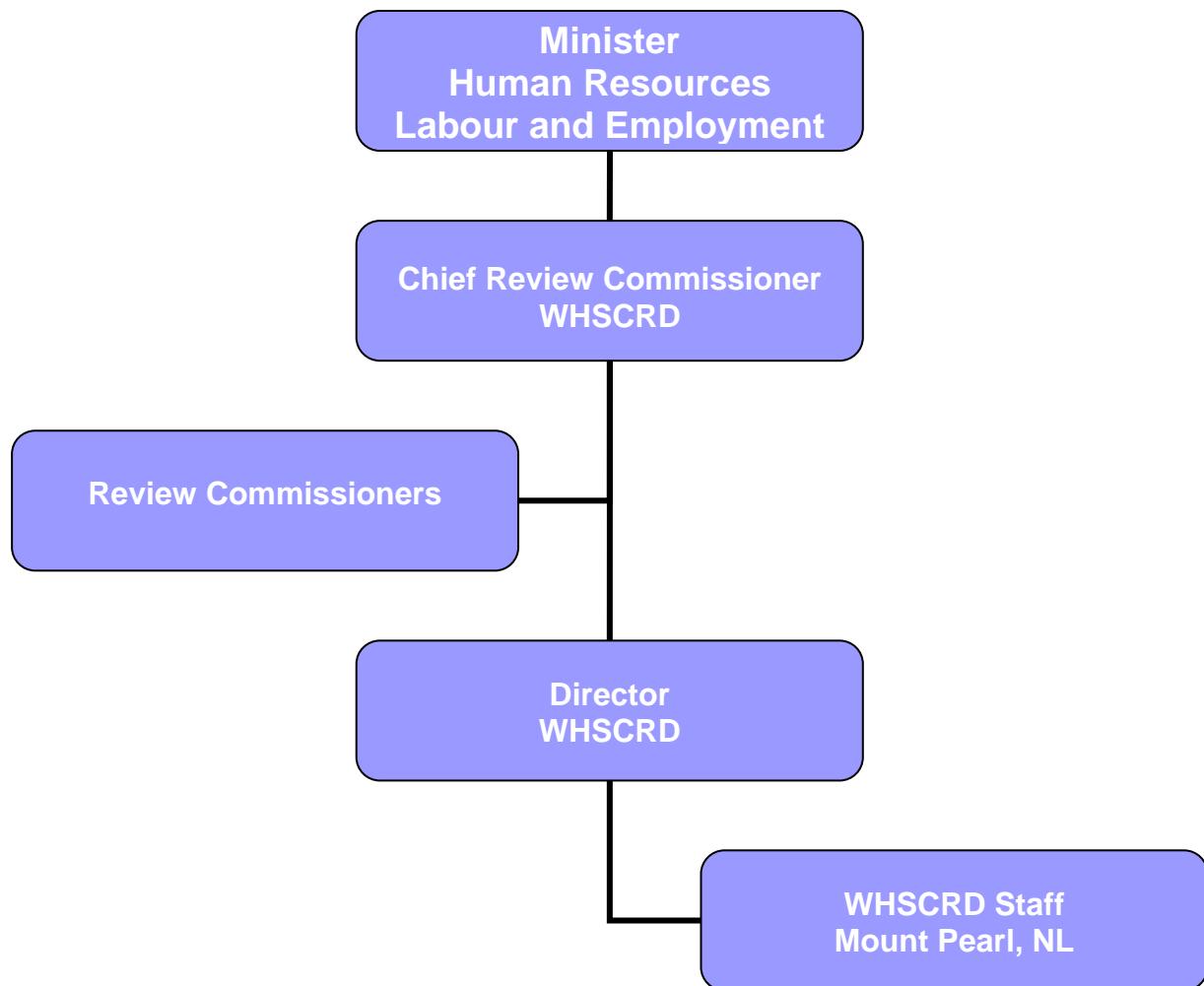
Review of Commission Decisions

The Review Division processes review applications submitted by injured workers, their dependants and employers in the province, as well as coordinates a review process that includes a hearing before a Review Commissioner.

Information Services

The Review Division provides information services to its clients by providing web-based distribution of its decisions; researching workers' compensation issues and collecting and maintaining statistical information relative to the review process.

ORGANIZATION CHART



HIGHLIGHTS AND ACCOMPLISHMENTS

To determine how to further improve on providing enhanced services to clients, the Review Division in 2007-2008 examined many of its internal operational processes. Throughout this exercise the following were noted as highlights and accomplishments for 2007-2008:

- ◆ In 2007, the Review Division prepared its first Activity Plan which provided direction for Review Division activities and outlined the goal for the 2007-2008 fiscal year to initiate the development of an awareness plan of its existing services. To assist in drafting this awareness plan, the Review Division has examined workers' compensation appeal entities across Canada and conducted jurisdictional analysis of: methods of appeal, processing time frames, case management practices, and advocacy groups to ensure consistent application of its guidelines and requirements.
- ◆ Historically, workers and employers have experienced significant wait times in receiving decisions. The Review Division is continually monitoring its case management to ensure wait times for decisions are minimal. As a result of this continuous monitoring, there has been a significant reduction in wait times from hearing to decision during 2007-2008. The average wait time in 2007-2008 was 30 days, compared to 45 days in 2006 and 65 days in 2005.
- ◆ The Review Division believes that a more interactive and informative process is necessary to educate stakeholders and clients on the many aspects of an external review. The Review Division has begun revising and enhancing its website to provide increased access to information and research tools. The website will include access to downloadable Review Division forms, informative pamphlets on the review process, the Review Division's Practice Manual, as well

HIGHLIGHTS AND ACCOMPLISHMENTS (CONT'D)

as links to other pertinent sites. The enhanced website is expected to be available at www.gov.nl.ca/whscrd during the fall of 2008.

- ◆ In a continuing effort to educate stakeholders and clients on the many aspects of the review process, the Review Division has developed a series of pamphlets to provide information respecting its processes. These pamphlets are available at the Review Division's office and will also be available on the website in the fall of 2008. The pamphlets outline the procedures for an external review and consist of: *General Information*, *The Review Process*, *Employer Participation*, *The Hearing Process* and *The Reconsideration Process*.

GOALS AND MEASURES

In the WHSCRD 2007-2008 Activity Plan, enhancing awareness of existing services was identified as a key priority for the Review Division. The Review Division recognizes many workers and employers are in need of additional support while participating in the review process.

Additionally, many employers and workers are not familiar with the role of the Review Division or their roles within it. Others require clarification on the distinct roles of the Review Division, the Commission, the Office of the Workers' Advisor and the Office of the Employers' Advisor, etc. Workers regularly appear before Review Commissioners alone or accompanied only by friends or family. Employer representatives are frequently business owners or other employees within the organization who have been designated the responsibility for workers' compensation matters and may lack an in-depth knowledge of the system.

Providing enhanced client awareness and support to workers and employers is essential to ensuring fairness within the review process. The Review Division will continue to improve services to assist workers and employers in this regard by implementing the elements of an awareness plan that informs employers and workers about the roles, responsibilities, and services within the Review Division.

GOALS AND MEASURES (CONTINUED)

The Review Division's Activity Plan for 2007-2008 identified the following as its goal. The associated measure and indicators outline the Review Division's focus for 2007-2008.

Goal 1: By 2008, the Review Division will have initiated the development of a plan to increase awareness of existing services.

Measure: Awareness Plan Drafted

Indicators:

- **Worker's and Employer's needs are identified and prioritized.**
- **Identify and review relevant promotional material in other entities.**
- **Identify educational/awareness opportunities.**
- **Identify communications' processes.**

OUTCOMES

In consideration of the strategic direction of the Minister and the mandate and financial resources of the Review Division, the following table outlines the associated measure and indicators to assist both the Review Division and the public in monitoring and evaluating progress and accomplishments.

Measure: Awareness Plan Drafted	
Indicators	Progress and Accomplishments
Workers' and Employers' needs are identified and prioritized	<p>To identify workers' and employers' needs, particularly areas requiring clarification and direction, the Review Division conducted a review of its legislation and regulations identifying areas which have been noted by workers and employers as ambiguous or failing to address their needs.</p> <p>The Review Division conducted a review of <i>The Report of the 2006 Statutory Review Committee on the Workplace Health, Safety and Compensation Act</i>, examining areas directly related to the appeals process. Particular attention was paid to information in the report provided through feedback from worker and employer groups.</p> <p>A jurisdictional analysis of existing programs, services and resources of other entities was conducted to determine best practices.</p> <p>Discussions were held with injured workers, labour and employer groups respecting areas they believed required enhanced support.</p> <p>A statement of needs and priorities was prepared and has been included in the draft awareness plan.</p>

OUTCOMES (CONTINUED)

Measure: Awareness Plan Drafted	
Indicators	Progress and Accomplishments
Identify and review relevant promotional material in other entities	<p>The Review Division reviewed its internal review processes, as well as conducted a review of other jurisdictions' promotional material, to identify areas where workers and employers require ongoing information.</p> <p>In drafting the awareness plan, a series of pamphlets was developed by the Review Division to assist workers and employers in the review process and are available for public distribution.</p>
Identify educational/awareness opportunities	<p>The Review Division contacted worker, labour and employer groups, to identify awareness opportunities such as attendance at conferences, information booths, etc. As an example, groups such as the Office of the Workers' Advisor, the Employers' Council and NAPE indicated they would be interested in receiving promotional material. An interest was also expressed in the Review Division's attendance at upcoming conferences to educate respective memberships regarding the external review process.</p> <p>The Review Division's internal processes were assessed to identify professional development opportunities for staff and Review Commissioners to provide enhanced client services for workers and employers.</p>

OUTCOMES (CONTINUED)

Measure: Awareness Plan Drafted	
Indicators	Progress and Accomplishments
Identify communication processes	<p>Communication processes were also examined in other jurisdictions. Particular attention was paid to Alberta, British Columbia and Ontario to identify the methods they employ, as these jurisdictions appeared to have comprehensive communication plans.</p> <p>A review of the Review Division's website to determine areas for improvement was also conducted. As a result, an enhanced website will be available in the fall of 2008 providing workers and employers with downloadable forms, information pamphlets and links to pertinent sites.</p> <p>A review was conducted of the Review Division's Decision Search System (DSS) to identify areas for improvement. The DSS initially met the needs of its clients when first launched in 2003. In collaboration with the Office of the Chief Information Officer, however, areas were highlighted where there is a requirement for enhancements to improve the search functionality of the DSS.</p>

OPPORTUNITIES AND CHALLENGES AHEAD

- The Review Division will engage in the continued efforts to achieve the goal of implementing an awareness plan as set out in the 2007-2008 Activity Plan. As well, the 2008-2011 Three Year Activity Plan has been prepared which will further expand upon the enhancement of client services and awareness.
- The Review Division will continue to process its applications in a timely manner and continue to monitor timelines from the submission of a Request for Review application to a final decision.
- The Review Division will continue ongoing communications with employers and workers to determine further enhancements to services and identify areas for educational and promotional activities.
- The Review Division will increase its professional development of staff and Review Commissioners to enhance their skills required for quality service in assisting clients during the review process.
- Ongoing research and information gained from other jurisdictions' practices and procedures will lead to the development of the Review Division's Practice Manual.

CASELOAD ACTIVITY

2007-2008 CASELOAD ACTIVITY AT A GLANCE

In 2007-2008, 334 Request for Review Applications were filed and 274 hearings were held. In addition, Review Division staff also coordinated work for an additional 114 hearings which were either postponed/rescheduled or subsequently withdrawn by the parties.

- ◆ Workers filed 307 Request for Review Applications.
- ◆ Employers filed 27 Request for Review Applications.
- ◆ The Review Division provided decisions on 269 cases.
- ◆ Review Commissioners found that 63% of the Commission's decisions, which were subject to review, were either not consistent with the *Act*, the regulations and policies of the Commission, or required additional review by the Commission. In these cases, Review Commissioners allowed the appeals or referred the cases back to the Commission for further review or investigation.
- ◆ The average time to receive a decision following the hearing was 30 days. Overall processing time from application to decision was four months.
- ◆ Approximately 34% of workers, who attended hearings were either self-represented throughout the Review Process, or were represented by friends or family.
- ◆ There were 31 requests for reconsideration of decisions filed in 2007-2008. Five requests were granted.

STATISTICAL OVERVIEW

Caseload April 1, 2007 to March 31, 2008

Caseload	2007/2008	2006/2007
Appeals Carried Forward	132	52
New Applications	334	455
Total Caseload	466	507
Decisions Rendered	269	293
Cases Withdrawn	30	63
Cases Awaiting a Decision	28	13
Cases Waiting to be Heard	105	98
Applications Pending	24	20
Applications Rejected	10	20

Monthly Hearings and Decisions April 1, 2007 to March 31, 2008

Hearings and Decisions	2007/2008		2006/2007	
	Hearings	Decisions	Hearings	Decisions
April	21	22	28	18
May	43	24	30	47
June	17	23	18	24
July	19	27	14	15
August	17	35	15	24
September	27	14	19	22
October	31	12	28	28
November	23	39	36	29
December	21	26	11	32
January	15	18	28	12
February	16	18	13	25
March	24	11	28	17
Total	274	269	268	293

STATISTICAL OVERVIEW (CONTINUED)

Representative Profile on Active Caseload From April 1, 2007 to March 31, 2008

Representatives	2007/2008	2006/2007
Employer Consultant	30	45
Worker Consultant	21	32
Legal Counsel	25	36
Union	73	74
Members of the House of Assembly	76	68
WHSCC	114	178
Self (Worker or Employer)	105	124
Other (Relative, Friend, etc.)	31	27
Total	475	584

Reconsideration Requests April 1, 2007 to March 31, 2008

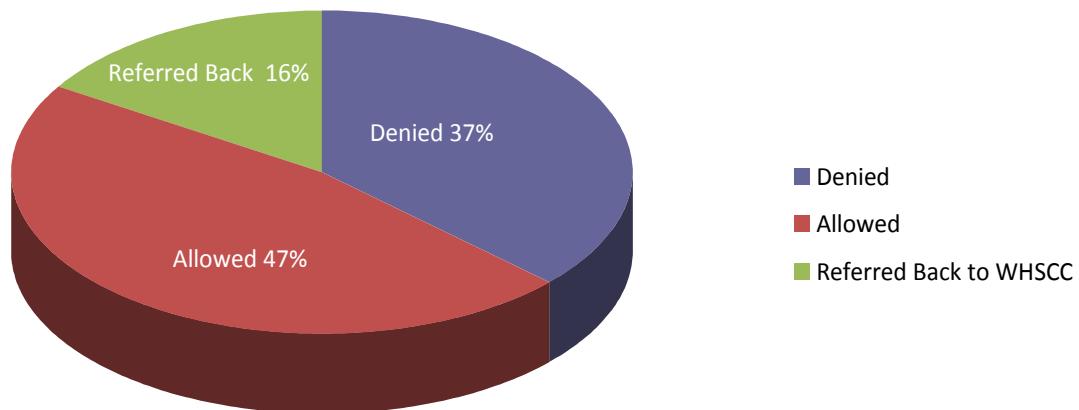
Reconsideration Cases	2007/2008			2006/2007		
	Requests	Allowed	Denied	Requests	Allowed	Denied
Employer Request	2	0	2	4	0	4
Worker Request	15	1	14	9	3	6
WHSCC Request	14	5	9	12	4	8
Total	31	6	25	25	7	18

STATISTICAL OVERVIEW (CONTINUED)

Decisions by Type April 1, 2007 to March 31, 2008

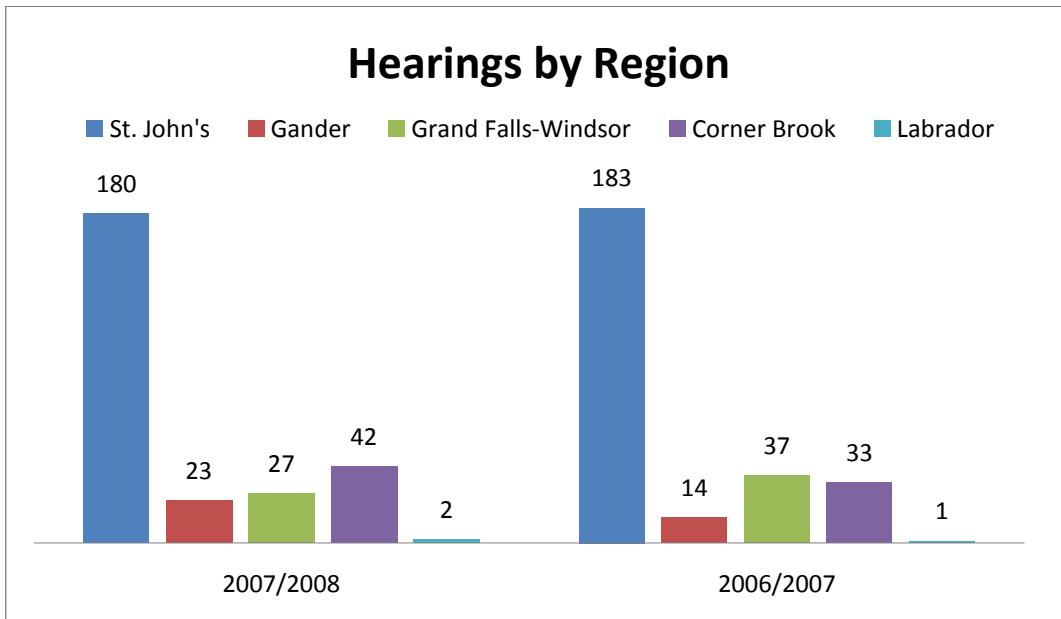
Decisions	2007/2008	2006/2007
Denied	99	115
Allowed	127	150
Referred to WHSCC	43	28
Total	269	293

Decision Outcome 2007-2008



STATISTICAL OVERVIEW (CONTINUED)

Hearings by Region April 1, 2007 to March 31, 2008



STATISTICAL OVERVIEW (CONTINUED)

Issues Summary April 1, 2007 to March 31, 2008

Type of Issues Reviewed		Outcome		
Worker/Dependent Appeals	Objections	Allowed	Denied	Referred to WHSCC
<i>Canada Pension Plan</i>	4	3	1	0
<i>Claim Denied</i>	27	14	8	5
<i>Compensation Rate</i>	3	1	2	0
<i>Dependency Benefits</i>	4	2	0	2
<i>Early & Safe Return to Work</i>	2	2	0	0
<i>Extended Earnings Loss</i>	62	36	15	11
<i>Industrial Deafness</i>	14	3	6	5
<i>Labour Market Re-Entry</i>	27	14	6	7
<i>Medical Aid</i>	55	29	16	10
<i>Other</i>	9	3	4	2
<i>Overpayment</i>	8	2	4	2
<i>Permanent Functional Impairment</i>	48	19	22	7
<i>Permanent Functional Disability</i>	4	2	2	0
<i>Proportionment</i>	6	5	1	0
<i>Recurrence</i>	18	9	6	3
<i>Reopening</i>	7	3	4	0
<i>Temporary Earnings Loss</i>	8	1	5	2
TOTAL	306	148 (49%)	102 (33%)	56 (18%)
Employer Appeals		Objections	Allowed	Denied
<i>Assessment Rate</i>	3	1	2	0
<i>Cost Relief</i>	3	1	1	1
<i>Objection to a Worker's Claim</i>	7	1	5	1
<i>Other</i>	1	1	0	0
<i>PRIME Rebate</i>	4	1	3	0
TOTAL	18	5 (28%)	11 (61%)	2 (11%)
OVERALL TOTALS	324	153 (47%)	113 (35%)	58 (18%)

Note: Review Applications may raise more than one issue for review, therefore, the above numbers do not correlate with the number of Review Applications or Decisions rendered.

FINANCIAL STATEMENT

There is no regular requirement for the Review Division to submit a separate, audited financial statement.

Statement of Expenditures and Related Revenues

Unaudited

For the Fiscal Year Ended March 31, 2008

	Estimates		
	Actual \$	Amended \$	Original \$
8.1.01. Workplace Health, Safety and Compensation Review			
01. Salaries	317,597	321,500	321,500
02. Employee Benefits	-	1,500	2,500
03. Transportation and Communications	20,963	23,000	20,000
04. Supplies	12,428	22,500	22,500
05. Professional Services	173,852	408,500	410,500
06. Purchased Services	106,798	120,500	120,500
07. Property, Furnishings and Equipment	<u>2,103</u>	<u>8,000</u>	<u>8,000</u>
	<u>633,741</u>	<u>905,500</u>	<u>905,500</u>
02. Revenue - Provincial	<u>(1,477,986)</u>	<u>(905,500)</u>	<u>(905,500)</u>
Total: Workplace Health, Safety and Compensation Review	<u>(844,245)</u>	<u>-</u>	<u>-</u>

Source: Report on the Program Expenditures and Revenues of the Consolidated Revenue Fund for the year ended 31 March 2008.

REVIEW COMMISSIONERS

Robert W. Lundrigan, Chief Review Commissioner

Mr. Lundrigan was appointed as Chief Review Commissioner in January 2005. Prior to that time, he spent 27 years in the province's educational system, 20 of which as a school principal in three different communities. He began his career in education after serving three years with the Newfoundland and Labrador Housing Corporation in St. John's. Mr. Lundrigan received his postsecondary education at Memorial University of Newfoundland, graduating with undergraduate degrees in Arts and Education followed by a Master of Education degree in 1989. He was an active member of the School Administrator's Council and served as chairperson and/or a member of numerous school districts and provincial committees in the education field. Additionally, Mr. Lundrigan served as a municipal councilor up to September 2005.

Alex Harrold, Review Commissioner

Mr. Harrold is a resident of Westport. He has served as a Review Commissioner since 2005. He has a Bachelor of Science degree from Southwest Missouri University and a Bachelor of Laws degree from Dalhousie University. Mr. Harrold is a former teacher who taught at Baie Verte High School and he has also worked with the Department of Justice. Mr. Harrold has also been a member of the Baie Verte Peninsula Health Care Board and is a former provincial Vice-President of the Multiple Sclerosis Society of Canada. Mr. Harrold's appointment as Review Commissioner expired on January 31, 2008.

Kimberly Burridge, Review Commissioner

Ms. Burridge is a graduate of Dalhousie Law School and was admitted to the Newfoundland Bar in 1994. She was appointed to the Review Division in 2005. She currently practices law in Corner Brook with *Murphy Watton and Burridge*. She is also an Adjudicator with the Newfoundland and Labrador Human Rights Commission and is the chairperson of the Board of the Humber Community Development Corporation. In the past she was a Commissioner for Urban and Rural Planning and a member of various other Boards. Ms. Burridge's appointment as Review Commissioner expired on December 31, 2007.

CONTACT INFORMATION

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